

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MELANIE HARRIS,

Plaintiff,

- against -

OSCAR DE LA RENTA, LLC, ET AL.,

Defendants.

20 Civ. 9235 (JGK)

ORDER OF SERVICE

JOHN G. KOELTL, District Judge:

The plaintiff brings this pro se action under Title VII of the Civil Rights Act of 1964, and the New York State and City Human Rights Laws, alleging that her former employers discriminated against her based on her race. By order dated November 9, 2020, the Court granted the plaintiff's request to proceed in forma pauperis ("IFP").

On February 22, 2022, the Court dismissed some of the plaintiff's claims in the second amended complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), but granted the plaintiff leave to reamend her claims. On March 15, 2022, the plaintiff filed a third amended complaint naming both Oscar de la Renta LLC and Fernando Garcia as defendants.

DISCUSSION

Because the plaintiff has been granted permission to proceed IFP, she is entitled to rely on the Court and the U.S. Marshals Service to effect service. See Walker v. Schult, 717

F.3d. 119, 123 n.6 (2d Cir. 2013); 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3).

Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summons and complaint be served within 90 days of the date on which the complaint is filed. However, because the plaintiff is proceeding IFP and could not have served the defendant until the Court reviewed the complaint and ordered that summons be issued, the Court extends the time to serve until 90 days after the date the summons is issued.¹ If the complaint is not served within that time, the plaintiff must request an extension of time for service. See Meilleur v. Strong, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff's responsibility to request an extension of time for service).

To allow the plaintiff to effect service on Fernando Garcia through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for the defendant, Fernando Garcia. The Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon this defendant.

¹ The plaintiff need only serve one defendant, Fernando Garcia, as Oscar de la Renta LLC was already served.

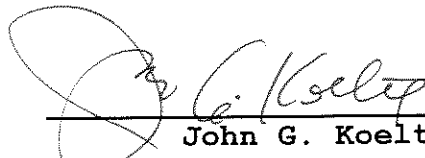
The plaintiff must notify the Court in writing if her address changes, and the Court may dismiss the action if the plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue a summons, complete the USM-285 forms with the address for Fernando Garcia, and deliver to the U.S. Marshals Service all documents necessary to effect service.

SO ORDERED.

**Dated: New York, New York
March 24, 2022**



**John G. Koeltl
United States District Judge**

DEFENDANT AND SERVICE ADDRESS

Fernando Garcia
11 West 42nd Street
New York, New York
10036-8002